

those books furnished to the Library of Congress for international exchange shall remain the property of the United States and shall be marked plainly, "The Property of the United States".

(June 25, 1948, ch. 646, 62 Stat. 906; Pub. L. 87-845, § 7, Oct. 18, 1962, 76A Stat. 699.)

#### HISTORICAL AND REVISION NOTES

Based on section 90 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees, section 530 of title 28, U.S.C., 1940 ed., and section 92 of title 44, U.S.C., 1940 ed., Public Printing and Documents (Aug. 7, 1882, ch. 433, § 1, 22 Stat. 336; Jan. 12, 1895, ch. 23, § 74, 28 Stat. 620; June 20, 1936, ch. 630, §§ 11, 12, 49 Stat. 1552, 1553; May 14, 1940, ch. 189, title IV, § 54 Stat. 210; June 28, 1941, ch. 258, title IV, § 55 Stat. 301; July 2, 1942, ch. 472, title IV, § 56 Stat. 504; June 28, 1943, ch. 173, title II, § 201, 57 Stat. 243; June 26, 1944, ch. 277, § 203, 58 Stat. 358; May 21, 1945, ch. 129, title IV, § 59 Stat. 200; July 5, 1946, ch. 541, title IV, § 60 Stat. 480).

Section consolidates section 90 of title 5, U.S.C., 1940 ed., providing that "statutes" shall be delivered to successors of United States attorneys and clerks and provisions of section 530 of title 28, U.S.C., 1940 ed., requiring that all lawbooks for judges and others shall be marked as property of the United States and shall be transmitted to their successors, with section 92 of title 44, U.S.C., 1940 ed., relating to transmittal of "Government publications."

Words "All Government publications and lawbooks" and "furnished under this chapter" were used to cover "all statutes" and "The Federal Reporter and continuations thereto."

Words "justices and judges of the United States" were substituted for "United States judges" in conformity with uniform use of the phrase to describe all members of the Federal judiciary. Similar provisions in sections 334 and 377 of title 28, U.S.C., 1940 ed., were therefore omitted as covered by this revised section.

Other provisions of said section 530 of title 28, U.S.C., 1940 ed., were omitted. (See reviser's note under section 413 of this title.)

The words "permanent or bound" were inserted in the last sentence of the revised section to obviate the wasteful practice under existing law of marking temporary pamphlets.

Changes were made in phraseology.

#### SENATE REVISION AMENDMENT

As finally enacted, part of act July 9, 1947, ch. 211, title IV, § 61 Stat. 306, which was classified to Title 28, U.S.C., 1946 ed., § 530, became one of the sources of this section and was accordingly included in the schedule of repeals by Senate amendment. See 80th Congress Senate Report No. 1559.

#### AMENDMENTS

1962—Pub. L. 87-845 substituted "furnished to justices, judges, clerks of courts, and United States attorneys of the United States and its territories and possessions, and other officers of the United States or an agency thereof" for "furnished to justices and judges of the United States and of the Territorial Courts, United States attorneys, clerks of courts, and other officers of the United States".

#### EFFECTIVE DATE OF 1962 AMENDMENT

Section 25 of Pub. L. 87-845 provided that: "This Act [enacting section 4210 of Title 18, Crimes and Criminal Procedure, and section 858 of Title 50, War and National Defense, and amending this section, sections 547, 1404, and 1406 of this title, section 14 of Title 18, section 1934 of Title 22, Foreign Relations and Intercourse, section 196 of Title 24, Hospitals and Asylums, and sections 191a and 191b of Title 50] takes effect January 2, 1963. Laws enacted after January 9, 1962, that are inconsistent

with this Act, supersede it to the extent of the inconsistency."

#### [§ 415. Repealed. Pub. L. 97-164, title I, § 113, Apr. 2, 1982, 96 Stat. 29]

Section, acts June 25, 1948, ch. 646, 62 Stat. 906; May 24, 1949, ch. 139, § 70, 63 Stat. 100, provided for distribution of copies of decisions of Court of Claims. See section 174(b) of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

### CHAPTER 21—GENERAL PROVISIONS APPLICABLE TO COURTS AND JUDGES

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#### AMENDMENTS

1982—Pub. L. 97-164, title I, §§ 115(a)(2), (b)(2), (c)(2), 116(b), Apr. 2, 1982, 96 Stat. 31, 32, inserted "official duty stations" in item 456, substituted "other courts" for "Canal Zone, Guam and Virgin Islands" in item 460, and added items 462 and 463.

1978—Pub. L. 95-598, title II, §§ 214(c), 217(b), Nov. 6, 1978, 92 Stat. 2661, struck out "Alaska," after "Application to" in item 460 and struck out reference to referees in bankruptcy in item 455.

1975—Pub. L. 94-82, title II, § 205(a)(2), Aug. 9, 1975, 89 Stat. 422, added item 461.

1974—Pub. L. 93-512, § 2, Dec. 5, 1974, 88 Stat. 1610, substituted "Disqualification of justice, judge, magistrate, or referee in bankruptcy" for "Interest of justice or judge" in item 455.

1963—Pub. L. 88-139, § 3(b), Oct. 16, 1963, 77 Stat. 248, substituted "power unrestricted by expiration of sessions" for "powers unrestricted by terms" in item 452.

1951—Act Oct. 31, 1951, ch. 655, § 42, 65 Stat. 725, inserted "Guam" in item 460.

#### CHANGE OF NAME

Words "magistrate judge" substituted for "magistrate" in item 455 pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

### § 451. Definitions

As used in this title:

The term "court of the United States" includes the Supreme Court of the United States, courts of appeals, district courts constituted by chapter 5 of this title, including the Court of International Trade and any court created by Act of Congress the judges of which are entitled to hold office during good behavior.

<sup>1</sup> So in original. Does not conform to section catchline.

The terms “district court” and “district court of the United States” mean the courts constituted by chapter 5 of this title.

The term “judge of the United States” includes judges of the courts of appeals, district courts, Court of International Trade and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.

The term “justice of the United States” includes the Chief Justice of the United States and the associate justices of the Supreme Court.

The terms “district” and “judicial district” means the districts enumerated in Chapter 5 of this title.

The term “department” means one of the executive departments enumerated in section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

The term “agency” includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense.

(June 25, 1948, ch. 646, 62 Stat. 907; Pub. L. 86-3, §10, Mar. 18, 1959, 73 Stat. 9; Pub. L. 89-571, §3, Sept. 12, 1966, 80 Stat. 764; Pub. L. 95-598, title II, §213, Nov. 6, 1978, 92 Stat. 2661; Pub. L. 96-417, title V, §501(10), Oct. 10, 1980, 94 Stat. 1742; Pub. L. 97-164, title I, §114, Apr. 2, 1982, 96 Stat. 29.)

#### HISTORICAL AND REVISIONS NOTES

This section was inserted to make possible a greater simplification in consolidation of the provisions incorporated in this title.

The definitions of agency and department conform with such definitions in section 6 of revised title 18, U.S.C. (H.R. 3190, 80th Cong.).

#### SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment. See 80th Congress Senate Report No. 1559.

#### REFERENCES IN TEXT

Section 1 of Title 5, referred to in text, is section 1 of former Title 5, Executive Departments and Government Officers and Employees, the provisions of which are covered by section 101 of Title 5, Government Organization and Employees.

#### AMENDMENTS

1982—Pub. L. 97-164 struck out references to the Court of Claims and to the Court of Customs and Patent Appeals in the definitions of “court of the United States” and “judge of the United States”.

1980—Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

1978—Pub. L. 95-598 directed the amendment of section by inserting references to bankruptcy courts and bankruptcy judges, which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1966—Pub. L. 89-571 removed the United States District Court for the District of Puerto Rico from the definition of “court of the United States”.

1959—Pub. L. 86-3 substituted “including the United States District for the District of Puerto Rico” for “including the district courts of the United States for the districts of Hawaii and Puerto Rico” in provisions defining “court of the United States”.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

#### EFFECTIVE DATE OF 1959 AMENDMENT

Section 10 of Pub. L. 86-3 provided that the amendment made by section 10 of Pub. L. 86-3 shall be effective on admission of the State of Hawaii into the Union. Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 25 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding 491 of Title 48, Territories and Insular Possessions.

#### “CIRCUIT COURT OF APPEALS;” “SENIOR CIRCUIT JUDGE,” ETC. DEFINED

Section 32 of act June 25, 1948, as amended by act May 24, 1949, ch. 139, §127, 63 Stat. 107, provided that:

“(a) All laws of the United States in force on September 1, 1948, in which reference is made to a ‘circuit court of appeals’; ‘senior circuit judge’; ‘senior district judge’; ‘presiding judge’; ‘chief justice’, except when reference to the Chief Justice of the United States is intended; or ‘justice’, except when used with respect to a justice of the Supreme Court of the United States in his capacity as such or as a circuit justice, are hereby amended by substituting ‘court of appeals’ for ‘circuit court of appeals’; ‘chief judge of the circuit’ for ‘senior circuit judge’; ‘chief judge of the district court’ for ‘senior district judge’; ‘chief judge’ for ‘presiding judge’; ‘chief judge’ for ‘chief justice’, except when reference to the Chief Justice of the United States is intended; and ‘judge’ for ‘justice’, except when the latter term is used with respect to a justice of the Supreme Court of the United States in his capacity as such or as a circuit justice.

“(b) All laws of the United States in force on September 1, 1948, in which reference is made to the Supreme Court of the District of Columbia or to the District Court of the United States for the District of Columbia are amended by substituting ‘United States District Court for the District of Columbia’ for such designations.

“(c) All laws of the United States in force on September 1, 1948, in which reference is made to the ‘Conference of Senior Circuit Judges,’ or to the ‘Judicial Conference of Senior Circuit Judges’ are amended by substituting ‘Judicial Conference of the United States’ for such designations.

“(d) This section shall not be construed to amend historical references to courts or judicial offices which have no present or future application to such courts or offices.”

#### JUDGES OF THE UNITED STATES

Section 2(a) of act June 25, 1948, as amended by act Sept. 3, 1954, ch. 1263, §51(a), 68 Stat. 1245, provided that: “The Chief Justices of the United States Court of Appeals for the District of Columbia, the District Court of the United States for the District of Columbia, and the Court of Claims [now United States Court of Federal Claims], and the presiding judge of the Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], in office on the effective date of this Act shall be the chief judges of their respective courts. The Chief Justice of the United States Court of Appeals for the District of Columbia and the Associate Justices thereof, the Chief Justice of the District Court of the United States for the District

of Columbia (formerly named the Supreme Court of the District of Columbia) and the Associate Justices thereof, the Chief Justice of the Court of Claims [now United States Court of Federal Claims], and the presiding judge of the Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], in office on the effective date of this Act, shall be judges of the United States within the meaning of Section 451 of Title 28, Judiciary and Judicial Procedure, of the United States Code, set out in Section 1 of this Act. The Chief Justice of the United States Court of Appeals for the District of Columbia and the Associate Justices thereof, in office on the effective date of this Act, shall be circuit judges of the District of Columbia Circuit and vested with all the rights, powers, and duties thereof, and the said Chief Justice of the United States Court of Appeals for the District of Columbia shall be Chief Judge of said Circuit. The Chief Justice of the District Court of the United States for the District of Columbia (formerly named the Supreme Court of the District of Columbia) and the Associate Justices thereof, in office on the effective date of this Act, shall be district judges for the District of Columbia and vested with all the rights, powers, and duties thereof."

Section 51(b) of act Sept. 3, 1954, provided that this amendment should take effect as of Sept. 1, 1948.

#### **§ 452. Courts always open; powers unrestricted by expiration of sessions**

All courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders.

The continued existence or expiration of a session of a court in no way affects the power of the court to do any act or take any proceeding.

(June 25, 1948, ch. 646, 62 Stat. 907; Pub. L. 88-139, § 2, Oct. 16, 1963, 77 Stat. 248.)

##### **HISTORICAL AND REVISION NOTES**

Based on title 28, U.S.C., 1940 ed., §§ 13 and 302 (Mar. 3, 1911, ch. 231, §§ 9, 189, 36 Stat. 1088, 1143; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475).

Sections 13 and 302 of title 28, U.S.C., 1940 ed., related only to district courts and the Court of Customs and Patent Appeals, and this section has been written to cover all other courts of the United States.

Other provisions of said section 302 of title 28, U.S.C., 1940 ed., are incorporated in sections 214, 456, and 604 of this title.

The phrase "always open" means "never closed" and signifies the time when a court can exercise its functions. With respect to matters enumerated by statute or rule as to which the court is "always open," there is no time when the court is without power to act. (Ex parte Branch, 63 Ala. 383, 387.)

Section 13 of title 28, U.S.C., 1940 ed., provided that "The district courts, as courts of admiralty and as courts of equity, shall be deemed always open \* \* \*" for enumerated purposes, and that the judge "at chambers or in the clerk's office, and in vacation as well as in term," may make orders and issue process. The revised section omits all reference to the nature of the action or proceeding and enumeration of the acts which may be performed by the court. This is in accord with Rules 45(c) and 56 of the new Federal Rules of Criminal Procedure which contain similar provisions with respect to criminal procedure both in the courts of appeals and in the district courts.

Rules 6(c) and 77(a) of the Federal Rules of Civil Procedure contain provisions similar to the second and first paragraphs, respectively, of this section with respect to civil actions in district courts.

##### **AMENDMENTS**

1963—Pub. L. 88-139 substituted "expiration of sessions" for "terms" in section catchline, and "session" for "term" in text.

#### **§ 453. Oaths of justices and judges**

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as \_\_\_\_\_ under the Constitution and laws of the United States. So help me God."

(June 25, 1948, ch. 646, 62 Stat. 907; Pub. L. 101-650, title IV, § 404, Dec. 1, 1990, 104 Stat. 5124.)

##### **HISTORICAL AND REVISION NOTES**

Based on title 28, U.S.C., 1940 ed., §§ 241, 372, and District of Columbia Code, 1940 ed., §§ 11-203, 11-303 (R.S.D.C., § 752, 18 Stat. pt. II, 90; Feb. 9, 1893, ch. 74, § 3, 27 Stat. 435; Mar. 3, 1901, ch. 854, § 223, 31 Stat. 1224; Mar. 3, 1911, ch. 231, §§ 136, 137, 257, 36 Stat. 1135, 1161; Feb. 25, 1919, ch. 29, § 4, 40 Stat. 1157).

This section consolidates sections 11-203 and 11-303 of District of Columbia Code, 1940 ed., and section 372 of title 28, U.S.C., 1940 ed., with that portion of section 241 of said title 28 providing that judges of the Court of Claims shall take an oath of office. The remainder of said section 241 comprises sections 171 and 173 of this title.

The phrase "justice or judge of the United States" was substituted for "justices of the Supreme Court, the circuit judges, and the district judges" appearing in said section 372, in order to extend the provisions of this section to judges of the Court of Claims, Customs Court, and Court of Customs and Patent Appeals and to all judges of any court which may be created by enactment of Congress. See definition in section 451 of this title.

The Attorney General has ruled that the expression "any judge of any court of the United States" applied to the Chief Justice and all judges of the Court of Claims. (21 Op. Atty. Gen. 449.)

##### **AMENDMENTS**

1990—Pub. L. 101-650 substituted "under the Constitution" for "according to the best of my abilities and understanding, agreeably to the Constitution".

##### **EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by Pub. L. 101-650 effective 90 days after Dec. 1, 1990, see section 407 of Pub. L. 101-650, set out as a note under section 332 of this title.

#### **§ 454. Practice of law by justices and judges**

Any justice or judge appointed under the authority of the United States who engages in the practice of law is guilty of a high misdemeanor.

(June 25, 1948, ch. 646, 62 Stat. 908.)

##### **HISTORICAL AND REVISION NOTES**

Based on title 28, U.S.C., 1940 ed., § 373 (Mar. 3, 1911, ch. 231, § 258, 36 Stat. 1161).

Changes in phraseology were made.

#### **§ 455. Disqualification of justice, judge, or magistrate judge**

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of

disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

(c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

(1) "proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(2) the degree of relationship is calculated according to the civil law system;

(3) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(4) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) Ownership of government securities is a "financial interest" in the issuer only if

the outcome of the proceeding could substantially affect the value of the securities.

(e) No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate judge, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate judge, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

(June 25, 1948, ch. 646, 62 Stat. 908; Pub. L. 93-512, § 1, Dec. 5, 1974, 88 Stat. 1609; Pub. L. 95-598, title II, § 214(a), (b), Nov. 6, 1978, 92 Stat. 2661; Pub. L. 100-702, title X, § 1007, Nov. 19, 1988, 102 Stat. 4667; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 24 (Mar. 3, 1911, ch. 231, § 20, 36 Stat. 1090).

Section 24 of title 28, U.S.C., 1940 ed., applied only to district judges. The revised section is made applicable to all justices and judges of the United States.

The phrase "in which he has a substantial interest" was substituted for "concerned in interest in any suit."

The provision of section 24 of title 28, U.S.C., 1940 ed., as to giving notice of disqualification to the "senior circuit judge," and words "and thereupon such proceedings shall be had as are provided in sections 17 and 18 of this title," were omitted as unnecessary and covered by section 291 et seq. of this title relating to designation and assignment of judges. Such provision is not made by statute in case of disqualification or incapacity, for other cause. See sections 140, 143, and 144 of this title. If a judge or clerk of court is remiss in failing to notify the chief judge of the district or circuit, the judicial council of the circuit has ample power under section 332 of this title to apply a remedy.

Relationship to a party's attorney is included in the revised section as a basis of disqualification in conformity with the views of judges cognizant of the grave possibility of undesirable consequences resulting from a less inclusive rule.

Changes were made in phraseology.

#### AMENDMENTS

1988—Subsec. (f). Pub. L. 100-702 added subsec. (f).

1978—Pub. L. 95-598 struck out references to referees in bankruptcy in section catchline and in subsecs. (a) and (e).

1974—Pub. L. 93-512 substituted "Disqualification of justice, judge, magistrate, or referee in bankruptcy" for "Interest of justice or judge" in section catchline, reorganized structure of provisions, and expanded applicability to include magistrates and referees in bankruptcy and grounds for which disqualification may be based, and inserted provisions relating to waiver of disqualification.

## CHANGE OF NAME

Words “magistrate judge” substituted for “magistrate” in section catchline and wherever appearing in subsecs. (a), (e), and (f) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy. For procedures relating to Bankruptcy matters during transition period see note preceding section 151 of this title.

## EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93-512 provided that: “This Act [amending this section] shall not apply to the trial of any proceeding commenced prior to the date of this Act [Dec. 5, 1974], nor to appellate review of any proceeding which was fully submitted to the reviewing court prior to the date of this Act.”

#### § 456. Traveling expenses of justices and judges; official duty stations

(a) The Director of the Administrative Office of the United States Courts shall pay each justice or judge of the United States, and each retired justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business at a place other than his official duty station for any continuous period of less than thirty calendar days (1) all necessary transportation expenses certified by the justice or judge; and (2) payments for subsistence expenses at rates or in amounts which the Director establishes, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States and after considering the rates or amounts set by the Administrator of General Services and the President pursuant to section 5702 of title 5. The Director of the Administrative Office of the United States Courts shall also pay each justice or judge of the United States, and each retired justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business under an assignment authorized under chapter 13 of this title which exceeds in duration a continuous period of thirty calendar days, all necessary transportation expenses and actual and necessary expenses of subsistence actually incurred, notwithstanding the provisions of section 5702 of title 5, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States.

(b) The official duty station of the Chief Justice of the United States, the Justices of the Supreme Court of the United States, and the judges of the United States Court of Appeals for the District of Columbia Circuit, the United States Court of Appeals for the Federal Circuit, and the United States District Court for the District of Columbia shall be the District of Columbia.

(c) The official duty station of the judges of the United States Court of International Trade shall be New York City.

(d) The official duty station of each district judge shall be that place where a district court

holds regular sessions at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains his actual abode in which he customarily lives.

(e) The official duty station of a circuit judge shall be that place where a circuit or district court holds regular sessions at or near which the judge performs a substantial portion of his judicial work, or that place where the Director provides chambers to the judge where he performs a substantial portion of his judicial work, which is nearest the place where he maintains his actual abode in which he customarily lives.

(f) The official duty station of a retired judge shall be established in accordance with section 374 of this title.

(g) Each circuit or district judge whose official duty station is not fixed expressly by this section shall notify the Director of the Administrative Office of the United States Courts in writing of his actual abode and official duty station upon his appointment and from time to time thereafter as his official duty station may change.

(June 25, 1948, ch. 646, 62 Stat. 908; Aug. 8, 1953, ch. 376, 67 Stat. 488; Pub. L. 86-138, Aug. 7, 1959, 73 Stat. 285; Pub. L. 95-598, title II, § 215, Nov. 6, 1978, 92 Stat. 2661; Pub. L. 96-417, title V, § 501(11), Oct. 10, 1980, 94 Stat. 1742; Pub. L. 97-164, title I, § 115(a)(1), Apr. 2, 1982, 96 Stat. 30; Pub. L. 99-234, title I, § 107(d), Jan. 2, 1986, 99 Stat. 1759.)

## HISTORICAL AND REVISION NOTES

Based on section 1102(d) of title 26, U.S.C., 1940 ed., Internal Revenue Code, and title 28, U.S.C., 1940 ed., §§ 218, 270, 296, 296a, 302, 374, 449 (Mar. 3, 1911, ch. 231, §§ 189, 259, 36 Stat. 1143, 1161, and § 187(a) as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101; and section 307 as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1224; Sept. 14, 1922, ch. 306, § 2, 42 Stat. 838; Feb. 24, 1925, ch. 301, § 2, 43 Stat. 965; May 29, 1928, ch. 852, § 711, 45 Stat. 882; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; June 23, 1930, ch. 573, § 1, 46 Stat. 799; Feb. 10, 1939, ch. 2, § 1102(d), 53 Stat. 159; Apr. 22, 1940, ch. 126, 54 Stat. 149; May 3, 1945, ch. 106, title I, § 1, 59 Stat. 127; May 21, 1945, ch. 129, title IV, 59 Stat. 197; July 5, 1946, ch. 541, title IV, 60 Stat. 477).

Section 270 of title 28, U.S.C., 1940 ed., related to the Chief Justice and each judge of the Court of Claims and provided for payment of expenses on order of court.

Sections 296, 296a of title 28, U.S.C., 1940 ed., provided for payment of such expenses of the Customs Court judges.

Section 302 of title 28, U.S.C., 1940 ed., provided for the payment of expenses of a judge of the Court of Customs and Patent Appeals upon his certificate. It contained no \$10 limitation upon his daily subsistence expense and in addition authorized the necessary expenses for travel and attendance of one stenographic clerk who accompanied him. This latter provision is the basis for section 834 of this title. Other provisions of said section 302 of title 28, U.S.C., 1940 ed., are incorporated in sections 214 and 452 of this title.

Section 374 of title 28, U.S.C., 1940 ed., related to circuit justices, circuit judges and district judges, including district judges in Alaska, Hawaii, and Puerto Rico. References to these territories is omitted as unnecessary. Provision for Alaska judges is covered by section 460 of this title, and section 114 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, as amended by a separate section in the bill to enact this revision. Hawaii and Puerto Rico are included as districts by sections 91 and 119 of this title, and judges thereof are “judges of the United States” as defined in section 451 of this title.

The inconsistent provision of said section 270 of title 28, U.S.C., 1940 ed., with reference to payment on order of court was omitted to permit payment to every judge on his certificate.

The \$10 per day subsistence limitation applicable to all other judges was extended to the judges of the Court of Customs and Patent Appeals.

The provision of said section 270 of title 28, U.S.C., 1940 ed., relating to traveling expenses of commissioners and stenographers is incorporated in sections 792 and 794 of this title.

The provisions of said section 296 of title 28, U.S.C., 1940 ed., relating to organization of the Customs Court are the basis of sections 251, 252, 253, and 254 of this title. Other provisions of said section 296 are incorporated in sections 1581, 2071, 2639, and 2640 of this title, and the retirement provisions of that section are covered by sections 371 and 372 of this title.

The provision of section 296 of title 28, U.S.C., 1940 ed., expenses of retired judges was made applicable to all judges.

The provision of section 218 of title 28, U.S.C., 1940 ed., for payment of travel expenses of judges attending the Judicial Conference of the United States was omitted as covered by the first paragraph of the revised section.

The provision in section 218 of title 28, U.S.C., 1940 ed., requiring the marshal of the Supreme Court to pay the expenses of attending the Judicial Conference of the United States is omitted as covered in part by section 550 [see 571] of this title under which United States marshals pay the travel allowances of circuit, district, and certain other judges. The expenses of the Chief Justice of the United States in attending such Conference were required also under said section 218 to be paid by the Supreme Court marshal. Such requirement is also omitted upon advice of the Director of the Administrative Office of the United States Courts that the matter of payment is one of administrative convenience. As to manner of payment of salaries to active and retired Justices of the Supreme Court, see reviser's note under section 550 [see 571] of this title.

Words "justice or judge of the United States" were used to describe members of all courts. See definitive section 451 of this title.

The remaining provisions of sections 218 of title 28, U.S.C., 1940 ed., relating to the Judicial Conference of the United States and 449 of title 28, U.S.C., 1940 ed., relating to judicial conferences of circuits, are incorporated in sections 331 and 333, respectively.

Said section 1102(d) of title 26, U.S.C., 1940 ed., related to traveling and subsistence expenses of judges of the Tax Court of the United States, successor to the Board of Tax Appeals.

Numerous changes were made in phraseology.

#### SENATE REVISION AMENDMENTS

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment, therefore section 1102(d) of title 26, U.S.C., was not one of the sources of this section as finally enacted.

As finally enacted, part of act July 9, 1947, ch. 211, title IV, 61 Stat. 303, which was classified to title 28, U.S.C., 1946 ed., § 296a, became one of the sources of this section and was accordingly included in the schedule of repeals by Senate amendment. See 80th Congress Senate Report No. 1559.

#### AMENDMENTS

1986—Subsec. (a). Pub. L. 99-234 substituted "payments for subsistence expenses at rates or in amounts which the Director establishes, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States and after considering the rates or amounts set by the Administrator of General Services and the President pursuant to section 5702 of title 5" for "a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance

fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5".

1982—Pub. L. 97-164 inserted "; official duty stations" in section catchline.

Subsec. (a). Pub. L. 97-164 designated existing undesignated first par. as subsec. (a), substituted "The Director of the Administrative Office of the United States Courts shall pay each justice or judge of the United States, and each retired justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business at a place other than his official duty station for any continuous period of less than thirty calendar days (1) all necessary transportation expenses certified by the justice or judge; and (2) a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5" for "Each Justice or judge of the United States and each retired Justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business at a place other than his official station, shall, upon his certificate, be paid by the Director of the Administrative Office of the United States Courts all necessary traveling expenses, and also a per diem allowance in lieu of actual expenses of subsistence (as defined in the Travel Expense Act of 1949, as amended, 63 Stat. 166; 5 U.S.C. 835) at the per diem rate provided for by the Travel Expense Act of 1949, as amended, or, in accordance with regulations prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States, reimbursement for his actual expenses of subsistence not in excess of the maximum amount fixed by the Travel Expense Act of 1949, as amended", and inserted "The Director of the Administrative Office of the United States Courts shall also pay each justice or judge of the United States, and each retired justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business under an assignment authorized under chapter 13 of this title which exceeds in duration a continuous period of thirty calendar days, all necessary transportation expenses and actual and necessary expenses of subsistence actually incurred, notwithstanding the provisions of section 5702 of title 5, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States."

Subsec. (b). Pub. L. 97-164 designated existing undesignated second par. as subsec. (b), and in subsec. (b) as so designated, substituted "official duty station" for "official station", struck out references to the judges of the Court of Claims and the Court of Customs and Patent Appeals, and inserted reference to the judges of the United States Court of Appeals for the Federal Circuit.

Subsec. (c). Pub. L. 97-164 designated existing undesignated third par. as subsec. (c) and substituted "official duty station" for "official station".

Subsec. (d). Pub. L. 97-164 designated existing undesignated fourth par. as subsec. (d) and substituted "The official duty station of each district judge shall be that place where a district court holds regular sessions at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains his actual abode in which he customarily lives" for "The official station of each circuit and district judge, including each district judge in the Territories and possessions, shall be that place where a district court is regularly held and at or near which the judge performs a substantial portion of his judicial

work, which is nearest the place where he maintains an actual abode in which he customarily lives”.

Subsecs. (e), (f). Pub. L. 97-164 added subsecs. (e) and (f).

Subsec. (g). Pub. L. 97-164 designated existing undesignated fifth par. as subsec. (g) and substituted “Each circuit or district judge whose official duty station is not fixed expressly by this section shall notify the Director of the Administrative Office of the United States Courts in writing of his actual abode and official duty station upon his appointment and from time to time thereafter as his official duty station may change” for “Each circuit judge and each district judge whose official station is not fixed expressly in the second paragraph of this section shall upon his appointment and from time to time thereafter as his official station may change, notify the Director of the Administrative Office of the United States Courts in writing of his actual abode and his official station”.

1980—Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

1978—Pub. L. 95-598 directed the amendment of section by inserting references to the United States Bankruptcy Court for the District of Columbia and bankruptcy judges, which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1959—Pub. L. 86-138 authorized payment to justices and judges of a per diem allowance or a maximum amount for actual expenses of subsistence in place of reasonable maintenance expenses actually incurred, not exceeding \$15 per day.

1953—Act Aug. 8, 1953, increased limit of reimbursable maintenance from \$10 to \$15 per day.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-234 effective (1) on effective date of regulations to be promulgated not later than 150 days after Jan. 2, 1986, or (2) 180 days after Jan. 2, 1986, whichever occurs first, see section 301(a) of Pub. L. 99-234, set out as a note under section 5701 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

#### REPORT ON TRANSPORTATION NEEDS

Pub. L. 99-550, §3, Oct. 27, 1986, 100 Stat. 3070, directed Director of Administrative Office of United States Courts, within one year after Oct. 27, 1986, to prepare, in consultation with Marshal of Supreme Court of United States, Clerk of United States Court of Military Appeals, and Court Administrator of United States Tax Court, and transmit to Congress, appropriate recommendations concerning transportation needs of judicial branch and of courts established pursuant to Article I of the Constitution.

#### PROMULGATION OF REGULATIONS BY DIRECTOR

Director to promulgate regulations effectuating increases in reimbursement for expenses, see section 6 of Pub. L. 87-139, Aug. 14, 1961, 75 Stat. 340, set out as a note under section 604 of this title.

### § 457. Records; obsolete papers

The records of district courts and of courts of appeals shall be kept at one or more of the places where court is held. Such places shall be

designated by the respective courts except when otherwise directed by the judicial council of the circuit.

Papers of any court established by Act of Congress which have become obsolete and are no longer necessary or useful, may be disposed of with the approval of the court concerned in the manner provided by sections 366-380 of Title 44 and in accordance with the rules of the Judicial Conference of the United States.

(June 25, 1948, ch. 646, 62 Stat. 908; Pub. L. 95-598, title II, §216, Nov. 6, 1978, 92 Stat. 2661.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§10, 523a, 523b, (Mar. 3, 1911, ch. 231, §6, 36 Stat. 1088; June 3, 1930, ch. 396, §§1, 2, 46 Stat. 496).

Section consolidates and simplifies sections 10, 523a and 523b of title 28, U.S.C., 1940 ed., relating to filing district court records and destroying obsolete papers and bankruptcy proofs of claims.

The revised section enlarges scope of section 10 of title 28, U.S.C., 1940 ed., to include places of keeping records of courts of appeals which was not covered by existing law.

The provisions in section 10 of title 28, U.S.C., 1940 ed., that where court is held “at more than one place” and the place of keeping the records “is not specially provided by law, they shall be kept at either of the places” designated by the court, was changed to permit the judicial councils of the circuits to make the determination without requiring special enactment of Congress. See section 332 of this title as to purpose and duties of the judicial councils.

The provision of section 523a of title 28, U.S.C., 1940 ed., authorizing destruction of records by the Attorney General was rewritten in the second paragraph to give such authority, respecting court records, to the Director of the Administrative Office of the United States Courts. Such Director, under section 604 of this title, now exercises administrative authority over clerks and commissioners.

A similar provision with respect to records of United States attorneys and marshals was omitted as superseded by sections 366 and 380 of title 44, U.S.C., 1940 ed., Public Printing and Documents, which prescribe the exclusive method for disposition of such papers.

Substantial changes were made in phraseology and arrangement.

#### REFERENCES IN TEXT

Sections 366-380 of Title 44, referred to in text, were repealed and the provisions thereof reenacted as chapter 33 (§3301 et seq.) of Title 44, Public Printing and Documents, by Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1238.

#### AMENDMENTS

1978—Pub. L. 95-598 directed the amendment of section by inserting “of bankruptcy courts,” after “The record”, which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

### § 458. Relative of justice or judge ineligible to appointment

(a)(1) No person shall be appointed to or employed in any office or duty in any court who is related by affinity or consanguinity within the degree of first cousin to any justice or judge of such court.

(2) With respect to the appointment of a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court), subsection (b) shall apply in lieu of this subsection.

(b)(1) In this subsection, the term—

(A) “same court” means—

(i) in the case of a district court, the court of a single judicial district; and

(ii) in the case of a court of appeals, the court of appeals of a single circuit; and

(B) “member”—

(i) means an active judge or a judge retired in senior status under section 371(b); and

(ii) shall not include a retired judge, except as described under clause (i).

(2) No person may be appointed to the position of judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) who is related by affinity or consanguinity within the degree of first cousin to any judge who is a member of the same court.

(June 25, 1948, ch. 646, 62 Stat. 908; Pub. L. 105-300, §1(a), Oct. 27, 1998, 112 Stat. 2836.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §126 (Mar. 3, 1887, ch. 373, §7, 24 Stat. 555; Aug. 13, 1888, ch. 866, §7, 25 Stat. 437; Mar. 3, 1911, ch. 231, §67, 36 Stat. 1105; Dec. 21, 1911, ch. 4, 37 Stat. 46).

A provision referring to circuit court employees as of December 21, 1911, was omitted as obsolete.

Changes in phraseology were made.

#### AMENDMENTS

1998—Pub. L. 105-300 designated existing provisions as subsec. (a)(1) and added subsecs. (a)(2) and (b).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-300, §1(b), Oct. 27, 1998, 112 Stat. 2837, provided that: “This Act [amending this section] shall take effect on the date of enactment of this Act [Oct. 27, 1998] and shall apply only to any individual whose nomination is submitted to the Senate on or after such date.”

### § 459. Administration of oaths and acknowledgments

Each justice or judge of the United States may administer oaths and affirmations and take acknowledgments.

(June 25, 1948, ch. 646, 62 Stat. 908.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§264, 385, section 1509 of title 19, U.S.C., 1940 ed., Customs Duties, and section 1114(a) of title 26, U.S.C., 1940 ed., Internal Revenue Code (Mar. 3, 1911, ch. 231, §§158, 268, 36 Stat. 1139, 1163; June 17, 1930, ch. 497, title IV, §509, 46 Stat. 733; Feb. 10, 1939, ch. 2, §1114(a), 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, §504(a), (c), 56 Stat. 957; Feb. 25, 1944, ch. 63, title V, §503, 58 Stat. 72).

Section consolidates provisions of sections 264 and 385 of title 28, U.S.C., 1940 ed., section 1509 of title 19, U.S.C., 1940 ed., and section 1114(a) of title 26, U.S.C., 1940 ed., relating to administration of oaths and acknowledgments by judges and courts.

The provision of section 385 of title 28, U.S.C., 1940 ed., giving to “all courts of the United States” power to impose and administer all necessary oaths is the only part of such section in this title. The remainder is incorporated in section 401 of revised title 18, U.S.C. (H.R. 1600, 80th Cong.), Crimes and Criminal Procedure.

Section 264 of title 28, U.S.C., 1940 ed., related only to the Court of Claims and provision of such section relating to clerks and deputies is incorporated in section 953 of this title.

Section 1509 of title 19, U.S.C., 1940 ed., related only to the Customs Court.

Section 1114(a) of title 26, U.S.C., 1940 ed., related only to The Tax Court. That portion of such section authorizing certain employees of The Tax Court to administer oaths and acknowledgments is incorporated in section 953 of this title. For distribution of other provisions thereof, see Distribution Table.

The revised section clarifies what was apparently a statutory omission in that no provision was made with reference to the Court of Customs and Patent Appeals, the judges of which now will have the same power respecting administering oaths as judges of other courts.

#### SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated, therefore, as finally enacted, section 1114(a) of Title 26, U.S.C., Internal Revenue Code, did not constitute part of the source of this section. However, no change in the text of this section was necessary. See 80th Congress Senate Report No. 1559.

### § 460. Application to other courts

(a) Sections 452 through 459 and section 462 of this chapter shall also apply to the United States Court of Federal Claims, to each court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States, and to the judges thereof.

(b) The official duty station of each judge referred to in subsection (a) which is not otherwise established by law shall be that place where the court holds regular sessions at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains his actual abode in which he customarily lives.

(June 25, 1948, ch. 646, 62 Stat. 908; Oct. 31, 1951, ch. 655, §43(a), 65 Stat. 725; Pub. L. 85-508, §12(e), July 7, 1958, 72 Stat. 348; Pub. L. 95-598, title II, §217(a), Nov. 6, 1978, 92 Stat. 2661; Pub. L. 97-164, title I, §115(b)(1), Apr. 2, 1982, 96 Stat. 31; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

#### HISTORICAL AND REVISION NOTES

This section was included to make clear that the provisions of this chapter are equally applicable in Alaska, the Canal Zone and the Virgin Islands in view of definitive section 451 of this title.

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Pub. L. 97-164 substituted “Application to other courts” for “Application to Canal Zone, Guam and Virgin Islands” in section catchline, designated existing provisions as subsec. (a), substituted “Sections 452 through 459 and section 462 of this chapter shall also apply to the United States Claims Court, to each court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States, and to the judges thereof” for “Sections 452-459 of this chapter shall also apply to the United States District Court for the District of the Canal Zone, the District Court of Guam and the District Court of the Virgin Islands and the judges thereof”, and added subsec. (b).

1978—Pub. L. 95-598 struck out “Alaska,” after “Application to” in section catchline.

1958—Pub. L. 85-508 struck out provisions which made sections 452 to 459 applicable to the District Court for

the Territory of Alaska. See section 81A of this title which establishes a United States District Court for the State of Alaska.

1951—Act Oct. 31, 1951, inserted “, Guam” in section catchline, and inserted reference to the District Court of Guam in text.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-508 effective Jan. 3, 1959, upon admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, see notes set out under section 81A of this title and preceding section 21 of Title 48, Territories and Insular Possessions.

### § 461. Adjustments in certain salaries

(a)(1) Subject to paragraph (2), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 of title 5 in the rates of pay under the General Schedule (except as provided in subsection (b)), each salary rate which is subject to adjustment under this section shall be adjusted by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100) equal to the percentage of such salary rate which corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.

(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.

(b) Subsection (a) shall not apply to the extent it would reduce the salary of any individual whose compensation may not, under section 1 of article III of the Constitution of the United States, be diminished during such individual's continuance in office.

(Added Pub. L. 94-82, title II, §205(a)(1), Aug. 9, 1975, 89 Stat. 422; amended Pub. L. 101-194, title VII, §704(a)(2)(A), Nov. 30, 1989, 103 Stat. 1769; Pub. L. 101-509, title V, §529 [title I, §101(b)(4)(J)], Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 103-356, title I, §101(4), Oct. 13, 1994, 108 Stat. 3411.)

#### REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5, Government Organization and Employees.

Section 704(a)(1) of the Ethics Reform Act of 1989, referred to in subsec. (a)(1), is section 704(a)(1) of Pub. L. 101-194, which is set out as a note under section 5318 of Title 5.

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-356 designated existing provisions as par. (1), substituted “Subject to paragraph (2), effective” for “Effective”, and added par. (2). 1990—Subsec. (a). Pub. L. 101-509 substituted “5303” for “5305”.

1989—Subsec. (a). Pub. L. 101-194 substituted “corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect” for “corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustments in the rates of pay under such Schedule.”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 101 of Pub. L. 101-356 provided that the amendment made by that section is effective as of Dec. 31, 1994.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-194 effective Jan. 1, 1991, see section 704(b) of Pub. L. 101-194, set out as a note under section 5318 of Title 5, Government Organization and Employees.

#### SALARY ADJUSTMENTS

Pub. L. 108-491, §1, Dec. 23, 2004, 118 Stat. 3973, provided that: “Pursuant to section 140 of Public Law 97-92 [set out below], Justices and judges of the United States are authorized during fiscal year 2005 to receive a salary adjustment in accordance with section 461 of title 28, United States Code.”

Pub. L. 108-447, div. B, title III, §306, Dec. 8, 2004, 118 Stat. 2895, provided that: “Pursuant to section 140 of Public Law 97-92 [set out below], and from funds appropriated in this Act [div. B of Pub. L. 108-447, see Tables for classification], Justices and judges of the United States are authorized during fiscal year 2005, to receive a salary adjustment in accordance with 28 U.S.C. 461.”

Pub. L. 108-167, Dec. 6, 2003, 117 Stat. 2031, provided that: “Pursuant to section 140 of Public Law 97-92 [set out below], Justices and judges of the United States are authorized during fiscal year 2004 to receive a salary adjustment in accordance with section 461 of title 28, United States Code.”

Pub. L. 108-6, §1, Feb. 13, 2003, 117 Stat. 10, provided that: “Pursuant to section 140 of Public Law 97-92 [set out below], Justices and judges of the United States are authorized during fiscal year 2003 to receive a salary adjustment in accordance with section 461 of title 28, United States Code.”

Pub. L. 107-77, title III, §305, Nov. 28, 2001, 115 Stat. 783, provided in part that: “Pursuant to section 140 of Public Law 97-92 [set out below], Justices and judges of the United States are authorized during fiscal year 2002, to receive a salary adjustment in accordance with 28 U.S.C. 461”.

Pub. L. 106-553, §1(a)(2) [title III, §309], Dec. 21, 2000, 114 Stat. 2762, 2762A-89, provided that: "Pursuant to section 140 of Public Law 97-92 [set out below], Justices and judges of the United States are authorized during fiscal year 2001, to receive a salary adjustment in accordance with 28 U.S.C. 461, only if for the purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 [Pub. L. 101-194] (5 U.S.C. 5318 note), adjustments under section 5303 of title 5, United States Code, shall take effect in fiscal year 2001".

Pub. L. 106-113, div. B, §1000(a)(1) [title III, §304], Nov. 29, 1999, 113 Stat. 1535, 1501A-36, provided in part that: "Pursuant to section 140 of Public Law 97-92 [set out below], Justices and judges of the United States are authorized during fiscal year 2000, to receive a salary adjustment in accordance with 28 U.S.C. 461".

Pub. L. 105-119, title III, §306, Nov. 26, 1997, 111 Stat. 2493, provided in part that: "Pursuant to section 140 of Public Law 97-92 [set out below], justices and judges of the United States are authorized during fiscal year 1998, to receive a salary adjustment in accordance with 28 U.S.C. 461".

Pub. L. 102-395, title III, §304, Oct. 6, 1992, 106 Stat. 1859, provided that: "Pursuant to section 140 of Public Law 97-92 [set out below], Justices and judges of the United States are authorized during fiscal year 1993, to receive a salary adjustment in accordance with 28 U.S.C. 461".

Pub. L. 102-140, title III, §305, Oct. 28, 1991, 105 Stat. 810, provided that: "Pursuant to section 140 of Public Law 97-92 [set out below], Justices and judges of the United States are authorized during fiscal year 1992, to receive a salary adjustment in accordance with 28 U.S.C. 461".

Pub. L. 101-520, title III, §321, Nov. 5, 1990, 104 Stat. 2285, provided that: "Pursuant to section 140 of Public Law 97-92 [set out below], Justices and judges of the United States are authorized during calendar year 1991 to receive a salary adjustment in accordance with 28 U.S.C. section 461".

Pub. L. 101-194, title VII, §703(a)(3), Nov. 30, 1989, 103 Stat. 1768, set out as a note under section 5318 of Title 5, Government Organization and Employees, provided that effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the Chief Justice of the United States, an associate justice of the Supreme Court of the United States, a judge of a United States circuit court, a judge of a district court of the United States, and a judge of the United States Court of International Trade shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of \$100 (or, if midway between multiples of \$100, to the next higher multiple of \$100).

For purposes of section 140 of Pub. L. 97-92 (set out below), appropriate salary increases were authorized for Federal judges and Justices of the Supreme Court pursuant to section 702(a) of Pub. L. 101-194 which provided that effective for pay periods beginning on or after Nov. 30, 1989, the rate of basic pay for any office or position in the judicial branch of the Government shall be determined as if section 620(b) of Pub. L. 100-440 (5 U.S.C. 5303 note) and section 619(b) of Pub. L. 101-136 (5 U.S.C. 5303 note) had never been enacted, see section 702 of Pub. L. 101-194, set out as a note under section 5303 of Title 5.

Pub. L. 100-202, §101(a) [title IV, §406], Dec. 22, 1987, 101 Stat. 1329, 1329-26, provided that: "Pursuant to section 140 of Public Law 97-92 [set out below], during fiscal year 1988, justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305)".

Pub. L. 99-500, §101(b) [title IV, §406], Oct. 18, 1986, 100 Stat. 1783-39, 1783-64, and Pub. L. 99-591, §101(b) [title IV, §406], Oct. 30, 1986, 100 Stat. 3341-39, 3341-64, provided that: "Pursuant to section 140 of Public Law 97-92 [set out below], during fiscal year 1987, justices and

judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305)".

Pub. L. 99-88, title I, §100, Aug. 15, 1985, 99 Stat. 310, provided in part that: "Effective on the first day of the first applicable pay period commencing on or after January 1, 1985, each rate of pay subject to adjustment by section 461 of title 28, United States Code, shall be increased by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100), equal to the overall percentage of the adjustment taking effect under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule during fiscal year 1985."

Pub. L. 98-369, div. B, title II, §2207, July 18, 1984, 98 Stat. 1060, provided that: "Effective on the first day of the first applicable pay period commencing on or after January 1, 1984, each rate of pay subject to adjustment by section 461 of title 28, United States Code, shall be increased by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100), equal to the overall percentage of the adjustment taking effect under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule during fiscal year 1984."

#### SPECIFIC CONGRESSIONAL AUTHORIZATION REQUIRED FOR SALARY INCREASES FOR FEDERAL JUDGES AND JUSTICES OF THE SUPREME COURT

Pub. L. 97-92, §140, Dec. 15, 1981, 95 Stat. 1200, as amended by Pub. L. 107-77, title VI, §625, Nov. 28, 2001, 115 Stat. 803, provided that: "Notwithstanding any other provision of law or of this joint resolution [Pub. L. 97-92], none of the funds appropriated by this joint resolution or by any other Act shall be obligated or expended to increase, after the date of enactment of this joint resolution [Dec. 15, 1981], any salary of any Federal judge or Justice of the Supreme Court, except as may be specifically authorized by Act of Congress hereafter enacted: *Provided*, That nothing in this limitation shall be construed to reduce any salary which may be in effect at the time of enactment of this joint resolution nor shall this limitation be construed in any manner to reduce the salary of any Federal judge or of any Justice of the Supreme Court. This section shall apply to fiscal year 1981 and each fiscal year thereafter."

#### SALARY RATE LIMITATIONS ON USE OF FUNDS

1982—Limitations on use of funds for fiscal year ending Sept. 30, 1983, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see section 101(e) of Pub. L. 97-276, as amended, set out as a note under section 5318 of Title 5, Government Organization and Employees.

1981—Limitations on use of funds for fiscal year ending Sept. 30, 1982, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see sections 101(g) and 141 of Pub. L. 97-92, set out as a note under section 5318 of Title 5.

1980—Limitations on use of funds for fiscal year ending Sept. 30, 1981, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see section 101(c) of Pub. L. 96-536, as amended, set out as a note under section 5318 of Title 5.

1979—Applicability to funds appropriated by any Act for fiscal year ending Sept. 30, 1980, of limitation of section 304 of Pub. L. 95-391 on use of funds to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see section 101 of Pub. L. 96-86, set out as a note under section 5318 of Title 5.

1978—Limitations on use of funds for fiscal year ending Sept. 30, 1979, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal or above level V of the Executive Schedule, see section 304 of Pub. L. 95-391 and section 613 of Pub. L. 95-429, set out as a note under section 5318 of Title 5.

**1977 COMPARABILITY ADJUSTMENT NOT EFFECTIVE FOR JUSTICES, JUDGES, COMMISSIONERS, AND REFEREES**

Pub. L. 95-66, §1(3), July 11, 1977, 91 Stat. 270, set out as a note under section 5318 of Title 5, Government Organization and Employees, provided that the first adjustment which, but for the enactment of Pub. L. 95-66, would have been made in the salary and rate of pay of justices, judges, commissioners, and referees under this section after July 11, 1977, would not take effect.

**§ 462. Court accommodations**

(a) Sessions of courts of the United States (except the Supreme Court) shall be held only at places where the Director of the Administrative Office of the United States Courts provides accommodations, or where suitable accommodations are furnished without cost to the judicial branch.

(b) The Director of the Administrative Office of the United States Courts shall provide accommodations, including chambers and courtrooms, only at places where regular sessions of court are authorized by law to be held, but only if the judicial council of the appropriate circuit has approved the accommodations as necessary.

(c) The limitations and restrictions contained in subsection (b) of this section shall not prevent the Director from furnishing chambers to circuit judges at places within the circuit other than where regular sessions of court are authorized by law to be held, when the judicial council of the circuit approves.

(d) The Director of the Administrative Office of the United States Courts shall provide permanent accommodations for the United States Court of Appeals for the Federal Circuit and for the United States Court of Federal Claims only at the District of Columbia. However, each such court may hold regular and special sessions at other places utilizing the accommodations which the Director provides to other courts.

(e) The Director of the Administrative Office of the United States Courts shall provide accommodations for probation officers, pretrial service officers, and Federal Public Defender Organizations at such places as may be approved by the judicial council of the appropriate circuit.

(f) Upon the request of the Director, the Administrator of General Services is authorized and directed to provide the accommodations the Director requests, and to close accommodations which the Director recommends for closure with the approval of the Judicial Conference of the United States.

(Added Pub. L. 97-164, title I, §115(c)(1), Apr. 2, 1982, 96 Stat. 31; amended Pub. L. 100-702, title X, §1015, Nov. 19, 1988, 102 Stat. 4669; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

**AMENDMENTS**

1992—Subsec. (d). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1988—Subsec. (c). Pub. L. 100-702 substituted “within the circuit other than where regular sessions of court

are authorized by law to be held,” for “where Federal facilities are available”.

**EFFECTIVE DATE OF 1992 AMENDMENT**

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

**§ 463. Expenses of litigation**

Whenever a Chief Justice, justice, judge, officer, or employee of any United States court is sued in his official capacity, or is otherwise required to defend acts taken or omissions made in his official capacity, and the services of an attorney for the Government are not reasonably available pursuant to chapter 31 of this title, the Director of the Administrative Office of the United States Courts may pay the costs of his defense. The Director shall prescribe regulations for such payments subject to the approval of the Judicial Conference of the United States.

(Added Pub. L. 97-164, title I, §116(a), Apr. 2, 1982, 96 Stat. 32.)

**EFFECTIVE DATE**

Section effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

**CHAPTER 23—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS**

Sec.	
471.	Requirement for a district court civil justice expense and delay reduction plan.
472.	Development and implementation of a civil justice expense and delay reduction plan.
473.	Content of civil justice expense and delay reduction plans.
474.	Review of district court action.
475.	Periodic district court assessment.
476.	Enhancement of judicial information dissemination.
477.	Model civil justice expense and delay reduction plan.
478.	Advisory groups.
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**§ 471. Requirement for a district court civil justice expense and delay reduction plan**

There shall be implemented by each United States district court, in accordance with this chapter, a civil justice expense and delay reduction plan. The plan may be a plan developed by such district court or a model plan developed by the Judicial Conference of the United States. The purposes of each plan are to facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes.

(Added Pub. L. 101-650, title I, §103(a), Dec. 1, 1990, 104 Stat. 5090; amended Pub. L. 102-198, §2(1), Dec. 9, 1991, 105 Stat. 1623.)